His Excellency Dr. Boutros Boutros-Ghali
Secretary-General of the United Nations
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Leiden, 18 May 1993

Excellency,

In our letter dated 20 November 1992 we conveyed to you our deep concern regarding the safety of Xanana Gusmão, the former leader of the East Timorese resistance, held under arrest by the Indonesian occupation army. On 14 January 1993, Mr. Francesc Vandrell, Director of the South and East Asia and the Pacific Division of the Department of Political Affairs, answered our letter in your name: he assured us that you had been following the situation of Xanana Gusmão closely and that you would do everything possible to ensure his safety and physical well-being as well his treatment in accordance with internationally acceptable legal standards and procedures. Needless to say, the International Platform of Jurists for East Timor received such assurances with great satisfaction.

Meanwhile Xanana Gusmão was put to trial. On the 1st of February, the day the trial began, Professor Roger Clark, of the Rutgers Law School, at Camden, N.J., expressed IPJET's position: we believe that the purported exercise of jurisdiction over Xanana Gusmão by the Indonesian authorities is completely illegitimate. The Indonesian invasion of East Timor was a breach of its territorial integrity as well as a denial of the inalienable right of its people to self-determination. International customary law, reflected in one of the provisions of the 1970 Declaration on Principles of International Law Concerning Friendly Relations and Co-operation Among States, determines that no territorial acquisition resulting from the use of force shall be recognised as legal. The trial of Xanana Gusmão, flowing from the annexation of East Timor and the imposition of Indonesian criminal laws upon the territory, is thus an illegal act of the occupying power. Besides, General Assembly Resolution 31/53, of 1 December 1976, reaffirmed in its paragraph 1 "the inalienable right of the people of East Timor to self-determination and independence and the legitimacy of their struggle to achieve that right". Xanana Gusmão was engaged in that legitimate struggle at the time of his capture.

Furthermore, as mentioned in November, we believe that in any case the IVth Geneva Convention of 1949 applies to Indonesia's occupation of East Timor. Our concern that Xanana Gusmão would not be treated in accordance with the minimum requirements of Humanitarian Law was fully justified. Since his arrest, many of those norms have been violated. His incommunicado detention, his removal from the territory, the physical and psychological torture to which he has been subjected (including the torturing to death of another member of the resistance who was captured with him) and his 'confession' broadcast on TV are concrete examples of such violations. The way the trial has been conducted is also at odds with internationally acceptable legal standards and procedures: Xanana Gusmão could not freely choose his legal counsel, access to the trial was often (and particularly at important moments) denied to international observers, prosecution witnesses were intimidated (one witness, Saturnino Belo, who did not act according with the wishes of the prosecutor, was removed from the courtroom and declared insane). Finally we have just heard that Xanana Gusmão was not allowed to read more than three pages of his 28-page defense plea; he was ordered to stop by the presiding judge on the ground that his defense was "irrelevant to the case". We protest strongly against this new violation of international legal standards, which apparently is also a violation of the Indonesian Criminal Procedures Code itself.

Before he was silenced Xanana Gusmão revoked his former statements: he rejected Indonesia's claim to have integrated East Timor and denied that he was an Indonesian citizen. Although the prosecutor earlier asked the court to give him a life sentence, we remind you that he is also facing the charge of illegal possession of firearms, which carries the death penalty, and that the Indonesian Attorney-General expressly declared that such an option was still open to the judge. In view of these latest developments, IPJET has reason to fear that Xanana's life is in serious danger. In this circumstance we urge you again to intervene and exercise your influence in order to obtain his release.

Yours sincerely,

Pedro Pinto Leite
Secretary-general IPJET